

FILED

John Anthony Guadnola
6920 S Main St #283
Wheatland, Oklahoma [73097]
Cell (808) 387-9088
Plaintiff

NOV 27 2019
CARMELITA REEDER SHINN, CLERK
U.S. DIST. COURT, WESTERN DIST. OKLA.
BY N.Y. DEPUTY

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

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John-Anthony: Guadnola)
Plaintiff,) Case No _____
)
) COMPLAINT FOR VIOLATIONS
Vs.) OF THE TELEPHONE CONSUMER
)) PROTECTION ACT 47 U.S.C. 227
))
HAWAII DEPARTMENT OF)
EDUCATION WAIALUA HIGH)
AND INTERMEDIATE SCHOOL)
Defendant,)
) TRIAL BY JURY DEMANDED

**COMPLAINT FOR VIOLATIONS OF THE TELEPHONE
CONSUMER PROTECTION ACT 47 U.S.C. 227**

JUDICIAL NOTICE

The United Staates Supreme Court, in Haines v Kerner 404 U.S. 519 (1972), said that all litigants defending themselves must be afforded the opportunity to present their evidence and that the Court should look to the substance of the complaint rather than the form.

JURISDICTION

1. This court has jurisdiction under 47 U.S.C. 277(b)(3) and 28 U.S.C. 1331.

2. All conditions precedent to the bringing of this action have been performed.

PARTIES

3. The Plaintiff in this lawsuit is John Anthony Guadnola, a natural person, who resides in Oklahoma County, Oklahoma.
4. The Defendant in this lawsuit is Department of Education, Waialua High and Intermediate School located in Waialua Hawaii.

VENUE

5. Plaintiff resides in Oklahoma County, the Venue is proper in the District Court for the Western District of Oklahoma.

BACKGROUND

6. On October 27, 2017 I, John A Guadnola gave a letter to the registrar in the office of Waialua High and Intermediate School advising that I did not want any automated phone calls from the School other than voice communication. The letter stated the following:

To whom it concerns:

The emergency contact information for Alxzander Guadnola is 808-387-9088. This number is only provided as an emergency contact number or a number that a teacher, counselor, may use for "voice" communication. No other use of the cell number 808-387-9088 is authorized and any implied permission is revoked. Thank you for your attention.

The letter was placed into a file by the registrar and a hand written note was placed on the bottom of the letter, by the registrar that was kept on file at the school stated "NO

AUTOMATED CALLS". I verified that the school still had the letter on file May 7, 2019 and was shown the letter at 3:47 pm.

7. Waialua High and Intermediate school was calling my cell phone almost every day. I received calls that my son was absent even after I had already provided information to the school that my son would be absent because of illness. I received calls about fund raisers and other activities that did not concern my son. I received calls while at work. I received calls when I was sleeping between my dayshift and the midnight shift. The calls became such a nuisance that it prompted the letter to stop all calls unless a call was made by a human being for a legitimate reason concerning his education and or the health and wellbeing of my son.
8. The D.C. Circuit upheld the FCC's decision that ***consumers may revoke consent to receive automated phone calls through any reasonable means***. Because the TCPA does not address whether or how a consumer may revoke consent to automated communications, the FCC had been petitioned to clarify whether consumers have the ability to revoke consent and, alternatively, to allow callers to designate an exclusive method for doing so. In the Declaratory Ruling, the then-majority Commissioners concluded that consumers may revoke consent at any time through "***any reasonable method***" that, based on "the totality of the facts and circumstances," expresses "a desire not to receive further messages." 2015 Declaratory Ruling at ¶ 47; *id.* at ¶¶ 63, 64 n. 233.

FACTUAL ALLEGATIONS

9. Waialua High and Intermediate School called my cell phone 808-387-9088 from phone numbers 808-307-2700, 808-586-2457, 808-307-2400.
10. The defendant continued to make automated phone calls to my cell phone number 808-387-9088 after receiving the letter October 27, 2017
11. The phone calls from defendant to Plaintiffs cell phone number 808-387-9088 occurred on the following dates from the following numbers:

1	11/25/2018	8083072700
2	12/4/2018	8083072400
3	12/9/2018	8083072400
4	12/16/2018	8083072400
5	12/16/2018	18083072400
6	12/19/2018	8083072400
7	12/19/2018	8083072400
8	1/14/2019	8083072400
9	1/29/2019	8083072400
10	2/7/2019	8083072400
11	2/12/2019	8083072700
12	2/17/2019	8083072400
13	2/19/2019	8083072400
14	2/20/2019	8083072400
15	2/22/2019	8083072400
16	2/26/2019	8083072400
17	3/4/2019	8083072400
18	3/6/2019	8083072400
19	3/22/2019	8083072400
20	3/26/2019	8083072400
21	4/4/2019	8083072700
22	4/8/2019	8085863457
23	4/9/2019	8083072400
24	4/11/2019	8083072400
25	4/15/2019	8083072400
26	4/15/2019	8083072400
27	4/17/2019	8083072400
28	4/23/2019	8083072400
29	4/23/2019	8083072400
30	4/23/2019	8083072400
31	4/24/2019	8083072400
32	4/25/2019	8083072400

33	4/25/2019	8083072400
34	4/27/2019	8083072400
35	4/29/2019	8083072400
36	4/30/2019	8083072400

12. Plaintiff has a record of the above calls.
13. Plaintiff has original voice mails left by the automated recorded message left from the calls that a message was left.
14. Upon information and good-faith, the phone calls identified above were placed to Plaintiffs cell phone number using an automatic telephone dialing system (ATDS).
15. Upon information and belief, Defendant made the phone calls to Plaintiff's cell phone identified above voluntarily after consent was revoked to call Plaintiff's cell phone.
16. Upon information and belief, Defendant maintains records that show all phone calls defendant placed to Plaintiffs wireless telephone number.
17. Upon information and belief, Defendant used an automated recorded voice to leave messages on Plaintiffs wireless telephone number.
18. This complaint is brought within the statute of limitation pursuant to 47 U.S.C 227.
19. At the times that all of the above identified phone calls were received on plaintiffs wireless phone plaintiff was the sole person having custody of said phone.

COUNT 1

VILATIONS OF THE TCPA 47 U.S.C.227(b)(1)(A)(iii)

20. Plaintiff repeats and re-alleges each and every allegation stated above.
21. Defendants aforementioned conduct violated the TCPA, 47 U.S.C. 227.

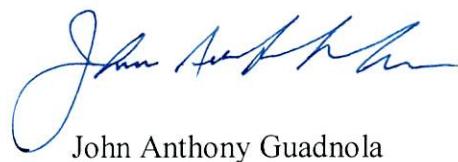
WHEREFORE, Plaintiff prays for relief and judgment, as follows:

- a. Adjudging that Hawaii Department of Education, Waialua High and Intermediate School violated the TCPA 47 U.S.C. 227.
- b. Awarding Plaintiff Statuary damages pursuant to 47 U.S.C 227(b)(3)(B)(C) of \$1500 for each phone call made to plaintiffs wireless phone as knowingly and/or willful violations;
- c. Awarding Plaintiff any fees and costs incurred in this action;
- d. Awarding Plaintiff and post-judgment interest as may be allowed by law;
- e. Awarding such other and further relief as the court may deem just and proper.

DEMAND FOR TRIAL BY JURY

Plaintiff hereby demands a trial by jury of all issues so triable as a matter of law.

Respectfully Submitted,



John Anthony Guadnola

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Plaintiff

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John-Anthony: Guadnola
Plaintiff,

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HAWAII DEPARTMENT OF
EDUCATION WAIALUA HIGH
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) COMPLAINT FOR VIOLATIONS OF
) THE TELEPHONE CONSUMER
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) SUMMONS

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CERTIFICATE OF SERVICE

I, John-Anthony: Guadnola, the Plaintiff-Petitioner, certify that a copy of the Summons, Complaint for Violations of the Telephone Consumer Protection Act 47 U.S.C 227 was placed in the U.S. Mail on 11/27/2019, Certified Mail number 70191120000094910565, to HAWAII DOE / WAIALUA HIGH AND INTERMEDIATE SCHOOL, QUEEN LILIUOKALANI BUILDING, 1390 MILLER STREET, HONOLULU HAWAII 96813.

John-Anthony: Guadnola